

AMENDED IN ASSEMBLY JUNE 23, 2003

AMENDED IN SENATE APRIL 23, 2003

AMENDED IN SENATE MARCH 26, 2003

## SENATE BILL

**No. 967**

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### **Introduced by Senator Burton**

**(Coauthors: Senators Brulte, Johnson, McPherson, Scott, and Vasconcellos)**

(Coauthors: Assembly Members Firebaugh and Wesson)

February 21, 2003

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An act to amend Sections 94739, 94800, 94802, and 94905 of, to amend and renumber Section 94740.1 of, and to add Sections 94740.3 and 94740.5 to, the Education Code, relating to postsecondary education.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 967, as amended, Burton. Postsecondary education: Private Postsecondary and Vocational Education Reform Act of 1989: regionally accredited institutions.

Existing law, known as the Private Postsecondary and Vocational Education Reform Act of 1989, generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. *The act excludes from the definition of private postsecondary educational institutions subject to regulation under its provisions for-profit institutions accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges (WASC), if the institution*

*exclusively confers degrees upon the completion of a course of study of two or more years.* The act establishes the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. Numerous terms are defined for the purposes of the act.

This bill would *modify that definitional exclusion to exclude all for-profit institutions accredited by WASC.*

The bill would define “non-WASC regional accrediting agency” and “non-WASC regionally accredited institution” for the purposes of the act.

The bill would ~~add to the act a presumption that a regionally accredited institution meets the general standards for all postsecondary institutions approved under the act. The bill would require the bureau to report to the Legislature its findings and recommendations regarding the operation of this presumption relative to institutions that have secured institutional or programmatic approval.~~

The bill would require a non-WASC regionally accredited institution to include, in its application to operate in this state, a copy of the certificate of accreditation issued by the non-WASC regional accrediting agency. The bill would require the bureau to determine that a non-WASC regionally accredited institution meets prescribed requirements before granting the institution approval to issue degrees. The bill would also make related technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 94739 of the Education Code is*  
2 *amended to read:*

3 94739. (a) “Private postsecondary educational institution”  
4 means any person doing business in California that offers to  
5 provide or provides, for a tuition, fee, or other charge, any  
6 instruction, training, or education under any of the following  
7 circumstances:

8 (1) A majority of the students to whom instruction, training, or  
9 education is provided during any 12-month period is obtained  
10 from, or on behalf of, students who have completed or terminated



1 their secondary education or are beyond the age of compulsory  
2 high school attendance.

3 (2) More than 50 percent of the revenue derived from providing  
4 instruction, training, or education during any 12-month period is  
5 obtained from, or on behalf of, students who have completed or  
6 terminated their secondary education or are beyond the age of  
7 compulsory high school attendance.

8 (3) More than 50 percent of the hours of instruction, training,  
9 or education provided during any 12-month period is provided to  
10 students who have completed or terminated their secondary  
11 education or are beyond the age of compulsory high school  
12 attendance.

13 (4) A substantial portion, as determined by the council, by  
14 regulation, of the instruction, training, or education provided is  
15 provided to students who have completed or terminated their  
16 secondary education or are beyond the age of compulsory high  
17 school attendance.

18 (b) The following are not considered to be private  
19 postsecondary educational institutions under this chapter:

20 (1) Institutions exclusively offering instruction at any or all  
21 levels from preschool through the 12th grade.

22 (2) Institutions offering education solely avocational or  
23 recreational in nature, and institutions offering this education  
24 exclusively.

25 (3) Institutions offering education sponsored by a bona fide  
26 trade, business, professional, or fraternal organization, solely for  
27 that organization's membership.

28 (4) Postsecondary or vocational educational institutions  
29 established, operated, and governed by the federal government or  
30 by this state, or its political subdivisions.

31 (5) Institutions offering continuing education where the  
32 institution or the program is approved, certified, or sponsored by  
33 any of the following:

34 (A) A government agency, other than the bureau, that licenses  
35 persons in a particular profession, trade, or job category.

36 (B) A state-recognized professional licensing body, such as the  
37 State Bar of California, that licenses persons in a particular  
38 profession, trade, or job category.

39 (C) A bona fide trade, business, or professional organization.

1 (6) A nonprofit institution owned, controlled, and operated and  
2 maintained by a bona fide church, religious denomination, or  
3 religious organization comprised of multidenominational  
4 members of the same well-recognized religion, lawfully operating  
5 as a nonprofit religious corporation pursuant to Part 4  
6 (commencing with Section 9110) of Division 2 of Title 1 of the  
7 Corporations Code, if the education is limited to instruction in the  
8 principles of that church, religious denomination, or religious  
9 organization, or to courses offered pursuant to Section 2789 of the  
10 Business and Professions Code, and the diploma or degree is  
11 limited to evidence of completion of that education, and the  
12 meritorious recognition upon which any honorary degree is  
13 conferred is limited to the principles of that church, religious  
14 denomination, or religious organization. Institutions operating  
15 under this paragraph shall offer degrees and diplomas only in the  
16 beliefs and practices of the church, religious denomination, or  
17 religious organization. The enactment of this paragraph expresses  
18 the legislative intent that the state shall not involve itself in the  
19 content of degree programs awarded by any institution operating  
20 under this paragraph, as long as the institution awards degrees and  
21 diplomas only in the beliefs and practices of the church, religious  
22 denomination, or religious organization. Institutions operating  
23 under this paragraph shall not award degrees in any area of  
24 physical science. Any degree or diploma granted in any area of  
25 study under these provisions shall contain on its face, in the written  
26 description of the title of the degree being conferred, a reference  
27 to the theological or religious aspect of the degree's subject area.  
28 Degrees awarded under this paragraph shall reflect the nature of  
29 the degree title, such as "Associate of Religious Studies," or  
30 "Bachelor of Religious Studies," or "Master of Divinity" or  
31 "Doctor of Divinity." The use of the degree titles "Associate of  
32 Arts" or "Associate of Science," "Bachelor of Arts" or  
33 "Bachelor of Science," "Master of Arts" or "Master of Science,"  
34 or "Doctor of Philosophy" or "Ph.D." shall only be awarded by  
35 institutions approved to operate under Article 8 (commencing with  
36 Section 94900) or meeting the requirements for an exemption  
37 under Section 94750. The enactment of this paragraph is intended  
38 to prevent any entity claiming to be a nonprofit institution owned,  
39 controlled, and operated and maintained by a bona fide church,  
40 religious denomination, or religious organization comprised of



1 multidenominational members of the same well-recognized  
2 religion, lawfully operating as a nonprofit religious corporation  
3 pursuant to Part 4 (commencing with Section 9110) of Division 2  
4 of Title 1 of the Corporations Code, from marketing and granting  
5 degrees or diplomas that are represented as being linked to their  
6 church, religious denomination, or religious organization, but  
7 which, in reality, are degrees in secular areas of study. An  
8 institution operating under this paragraph shall file annually with  
9 the council evidence to demonstrate its status as a nonprofit  
10 religious corporation under the Corporations Code. A college or  
11 university operating under this paragraph shall file annually with  
12 the council evidence to demonstrate its status as a nonprofit  
13 religious corporation under the Corporation Code.

14 (7) (A) Public institutions accredited by the ~~senior~~  
15 ~~commission or the junior commission~~ *Accrediting Commission for*  
16 *Senior Colleges and Universities or the Accrediting Commission*  
17 *for Community and Junior Colleges* of the Western Association of  
18 Schools and Colleges.

19 (B) Institutions accredited by the ~~senior commission or the~~  
20 ~~junior commission~~ *Accrediting Commission for Senior Colleges*  
21 *and Universities or the Accrediting Commission for Community*  
22 *and Junior Colleges* of the Western Association of Schools and  
23 Colleges that are incorporated and lawfully operating as a  
24 nonprofit public benefit corporation pursuant to Part 2  
25 (commencing with Section 5110) of Division 2 of Title 1 of the  
26 Corporations Code and that are not managed by any entity for  
27 profit.

28 (C) For-profit institutions accredited by the ~~senior or the junior~~  
29 ~~commission~~ *Accrediting Commission for Senior Colleges and*  
30 *Universities or the Accrediting Commission for Community and*  
31 *Junior Colleges* of the Western Association of Schools and  
32 Colleges, ~~if the institution exclusively confers degrees upon the~~  
33 ~~completion of a course of study of two or more years.~~

34 (D) Institutions accredited by the Western Association of  
35 Schools and Colleges that do not meet all of the criteria in  
36 subparagraph (B) and that are incorporated and lawfully operating  
37 as a nonprofit public benefit corporation pursuant to Part 2  
38 (commencing with Section 5110) of Division 2 of Title 1 of the  
39 Corporations Code, that have been in continuous operation since  
40 April 15, 1997, and that are not managed by any entity for profit.

1 Notwithstanding this subdivision, institutions that meet the  
2 criteria in this subparagraph shall be subject to Section 94831,  
3 except subdivision (c) of that section, and Sections 94832, 94834,  
4 94838, and 94985.

5 *SEC. 2.* Section 94740.1 of the Education Code is amended  
6 and renumbered to read:

7 94740.7. “Registered,” “registered institution,” or  
8 “registered educational service” means any individual or  
9 organization that offers an educational service and is registered to  
10 operate under Article 9.5 (commencing with Section 94931).

11 ~~*SEC. 2.*~~

12 *SEC. 3.* Section 94740.3 is added to the Education Code, to  
13 read:

14 ~~94740.3. “Regional accrediting agency” means one of the~~  
15 ~~following agencies~~

16 94740.3. “Non-WASC regional accrediting agency” means a  
17 regional accrediting agency, other than the Western Association of  
18 Schools and Colleges, recognized by the United States  
19 Department of Education as possessing similar quality and rigor  
20 in accreditation standards, and limited to the following:

21 (a) Middle States Association of Colleges and Schools,  
22 Commission on Higher Education.

23 (b) New England Association of Schools and Colleges,  
24 Commission on Institutions of Higher Education.

25 (c) North Central Association of Colleges and Schools, The  
26 Higher Learning Commission.

27 (d) Northwest Association of Schools and of Colleges and  
28 Universities, Commission on Colleges and Universities.

29 (e) Southern Association of Colleges and Schools,  
30 Commission on Colleges.

31 ~~*SEC. 3.*~~

32 *SEC. 4.* Section 94740.5 is added to the Education Code, to  
33 read:

34 94740.5. ~~“Regionally~~ “Non-WASC regionally accredited  
35 institution” means a degree-granting institution that has been  
36 accredited by one of the non-WASC regional accrediting agencies  
37 listed in Section 94740.3. It does not include any of the following:

38 (a) An institution within the meaning of paragraph (7) of  
39 subdivision (b) of Section 94739 that has been accredited by the  
40 ~~senior commission or the junior commission of the Western~~

1 *Accrediting Commission for Senior Colleges and Universities or*  
2 *the Accrediting Commission for Community and Junior Colleges*  
3 *of the Western Association of Schools and Colleges.*

4 (b) An institution that has provisional accreditation.

5 (c) An institution that has applied for accreditation.

6 (d) An institution that is identified by an accrediting agency as  
7 a candidate for accreditation.

8 ~~SEC. 4.—~~

9 *SEC. 5.* Section 94800 of the Education Code is amended to  
10 read:

11 94800. All institutions approved under this chapter shall be  
12 maintained and operated, or in the case of a new institution, shall  
13 demonstrate that it will be maintained and operated, in compliance  
14 with all of the following minimum standards:

15 (a) That the institution is financially capable of fulfilling its  
16 commitments to its students.

17 (b) That upon satisfactory completion of training, the student  
18 is given an appropriate degree, diploma, or certificate by the  
19 institution, indicating that the course or courses of instruction or  
20 the program or programs of instruction or study have been  
21 satisfactorily completed by the student.

22 (c) That the institution provides instruction as part of its  
23 educational program. Instruction shall include any specific,  
24 formal arrangement by an institution for its enrollees to participate  
25 in learning experiences wherein the institution's faculty or  
26 contracted instructors present a planned curriculum appropriate to  
27 the enrollee's educational program.

28 ~~(d) (1) A regionally accredited institution, as defined in~~  
29 ~~Section 94740.5, is presumed to meet the minimum educational~~  
30 ~~standards required by this chapter.~~

31 ~~(2)—~~

32 (d) The bureau shall annually report to the Legislature its  
33 findings and recommendations ~~regarding the operation of the~~  
34 ~~presumption established by paragraph (1) relative to institutions~~  
35 *that have secured institutional or programmatic approval*  
36 *pursuant to this section.*

37 ~~SEC. 5.—~~

38 *SEC. 6.* Section 94802 of the Education Code is amended to  
39 read:



1 94802. (a) Each institution desiring to operate in this state  
2 shall make application to the bureau, upon forms to be provided  
3 by the bureau. The application shall include, as a minimum, at least  
4 all of the following:

5 (1) A catalog published, or proposed to be published, by the  
6 institution containing the information specified in the criteria  
7 adopted by the bureau. The catalog shall include specific dates as  
8 to when the catalog applies.

9 (2) A description of the institution's placement assistance, if  
10 any.

11 (3) Copies of media advertising and promotional literature.

12 (4) Copies of all student enrollment agreement or contract  
13 forms and instruments evidencing indebtedness.

14 (5) The name and California address of a designated agent upon  
15 whom any process, notice, or demand may be served.

16 (6) The information specified in Section 94808.

17 (7) The institution's most current financial report as described  
18 in Section 94806.

19 (8) An application submitted by a *non-Wasc* regionally  
20 accredited institution, as defined in Section 94740.5, shall include  
21 a copy of the certificate of accreditation issued by the *non-WASC*  
22 regional accrediting agency, as defined in Section 94740.3.

23 (b) Each application shall be signed and certified under oath by  
24 the owners of the school or, if the school is incorporated, by the  
25 principal owners of the school (those who own at least 10 percent  
26 of the stock), or by the corporate officers or their designee.

27 (c) Following review of the application and any other further  
28 information submitted by the applicant, or required in conformity  
29 with Article 8 (commencing with Section 94900) and Article 9  
30 (commencing with Section 94915), and any investigation of the  
31 applicant as the bureau deems necessary or appropriate, the bureau  
32 either shall grant or deny approval to operate to the applicant.

33 ~~SEC. 6.~~

34 *SEC. 7.* Section 94905 of the Education Code is amended to  
35 read:

36 94905. (a) (1) Any *non-WASC* regionally accredited  
37 institution, as defined in Section 94740.5, that is approved by the  
38 bureau to operate at the time of the issuance of a degree may issue  
39 degrees, diplomas, or certificates. Except for continuing education  
40 programs and programs that are exclusively avocational or



1 recreational in nature, accredited public or private postsecondary  
2 educational institutions incorporated in another state shall not  
3 offer degrees, diplomas, or certificates in California unless they  
4 comply with this section.

5 (2) A *non-WASC* regionally accredited institution approved to  
6 operate pursuant to this section, and any and all of its program  
7 offerings, are subject to the requirements of Article 13  
8 (commencing with Section 94950).

9 (b) The bureau shall not approve a *non-WASC* regionally  
10 accredited institution to issue degrees, diplomas, or certificates  
11 pursuant to this section until the bureau has determined that the  
12 institution has complied with all of the following requirements:

13 (1) The institution meets the financial responsibility  
14 requirements set forth in paragraph (2) of subdivision (a) of  
15 Section 94804.

16 (2) The institution's cohort default rate on guaranteed student  
17 loans does not exceed 15 percent for the three most recent years,  
18 as published by the United States Department of Education.

19 (3) The institution submits to the bureau copies of its most  
20 recent Integrated Postsecondary Education Data System Report of  
21 the United States Department of Education and its accumulated  
22 default rate.

23 (4) The institution pays fees in accordance with Section 94932.

24 (5) The institution has submitted an application to operate for  
25 itself or a branch or satellite campus pursuant to Section 94802 or  
26 an application for renewal pursuant to Section 94840.

27 (c) A *non-WASC* regionally accredited institution shall be  
28 required to notify the bureau of the addition of a degree, *diploma*,  
29 *or certificate* program that is not included in the institution's initial  
30 or renewal application within 90 days of adding the program. If a  
31 *non-WASC* regional accrediting agency, as defined in Section  
32 94740.3, requires approval of the additional degree, *diploma*, *or*  
33 *certificate* program, a copy of the certificate of accreditation or  
34 approval shall be included with the notice to the bureau, and no  
35 additional review or investigation of the program shall be required  
36 by the bureau. If the regional accrediting agency does not require  
37 approval of the additional degree, *diploma*, *or certificate* program,  
38 the institution shall include its most recent certificate of  
39 accreditation with the notice to the bureau, and no additional  
40 review or investigation of the program or institution shall be

1 required by the bureau. Nothing in this subdivision shall be  
2 construed to limit the authority of the bureau to investigate student  
3 complaints.

4 (d) A *non-WASC* regionally accredited institution approved to  
5 operate pursuant to this section is exempt from the requirements  
6 of Sections 94900 and 94901, Article 9 (commencing with Section  
7 94915), and Article 9.5 (commencing with Section 94931). Any  
8 *non-WASC* regionally accredited institution that is not approved to  
9 operate pursuant to this section may apply for approval to operate  
10 pursuant to Sections 94900 and 94901.

